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NXP, B.V.  
NXP INTELLECTUAL PROPERTY DEPARTMENT  
1109 McKay Drive, M/S41-SJ  
San Jose, CA 95131

In re Application of :  
NEUILLY et al :  
U.S. Application No.: 10/566,805 :  
PCT No.: PCT/IB2004/051292 :  
Int. Filing Date: 26 July 2004 :  
Priority Date: 01 August 2003 : **DECISION**  
Attorney Docket No.: NL030927US1 :  
For: METHOD OF MANUFACTURING A :  
SEMICONDUCTOR DEVICE WITH A :  
BIPOLAR TRANSISTOR AND DEVICE :  
WITH A BIPOLAR TRANSISTOR :  
:

This petition is in response to the papers filed on 27 December 2007 which are treated as a petition under 37 CFR 1.8(b). No fee is required.

**BACKGROUND**

On 08 June 2006, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration and the surcharge fee were required. Applicants were given two months to respond with extensions of time available.

On 24 July 2006, applicants purportedly filed a response via facsimile containing an executed declaration. These papers were not located in the file.

On 10 December 2007, the Office mailed a Notification of Abandonment (Form PCT/DO/EO/909), indicating that the application went abandoned for failure to timely reply to the Form PCT/DO/EO/905 mailed 08 June 2006.

On 27 December 2007, applicants filed this petition indicating that applicants had timely responded to the Notification of Missing Requirements via facsimile on 24 July 2006, enclosing a copy of the 24 July 2006 response and the Auto-Reply Facsimile Transmission report sent by the Office.

**DISCUSSION**

Applicants claim to have responded to the Notification of Missing Requirements

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on 24 July 2006, but the facsimile transmission is not present in the file. However, 37 CFR 1.8 *Certificate of mailing or transmission*, states in part:

- (b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
- (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
  - (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
  - (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

Applicants provided a copy of the documents purportedly filed 24 July 2006. Applicants also included an "Auto-Reply Facsimile Transmission" from the USPTO. The statements in the petition are sufficient to satisfy item (3) of 37 CFR 1.8(b).

A review of the evidence shows that the USPTO received a facsimile on 24 July 2007. The cover page of the facsimile lists the proper U.S. application number, title and applicant. The document certifies that an "Executed Declaration and Power of Attorney" were among the papers received.

This evidence meets the requirements of 37 CFR 1.8(b) and is sufficient for a grantable petition.

### **CONCLUSION**

Applicants' petition under 37 CFR 1.8(b) is **GRANTED**.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 10 December 2007 is hereby **VACATED**.

However, the declaration originally submitted on 24 July 2007 is defective

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because it is only a composite declaration. As submitted, the declaration consists of three pages, i.e., one Page 1 of 2 and two Page(s) 2 of 2. While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. By providing only a partial declaration, it is not clear what inventive entity was listed on the declaration signed by each co-inventor.

Applicants must provide a complete declaration in compliance with 37 CFR 1.497(a) and (b) within **ONE (1) MONTH** from the mail date of this communication.

Failure to submit the required reply in the time allotted will result in the **ABANDONMENT** of this application.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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